

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

IN THE MATTER OF S.B., A MINOR STUDENT,)
BY AND THROUGH HIS PARENTS,)
M.B. AND L.H.;)
)
M.S., A MINOR STUDENT,)
BY AND THROUGH HER PARENT, K.P.;)
)
T.W., A MINOR STUDENT,)
BY AND THROUGH HIS PARENTS, M.W.)
J.W., AND)
)
M.K. A MINOR STUDENT,)
BY AND THROUGH HER PARENT, S.K.)
) DISTRICT JUDGE GREER
)
PLAINTIFFS.)
)
VS.)
) No. 3:21-cv-00317-JRG-DCP
GOVERNOR BILL LEE, in his official)
capacity as GOVERNOR OF TENNESSEE, and)
KNOX COUNTY BOARD OF EDUCATION,)
)
DEFENDANTS.)

MOTION TO MODIFY INJUNCTION

COME THE PLAINTIFFS, under Fed. R. Civ. P. 65, filing this Motion to Modify the
Preliminary Injunction. They show:

1. Federal Rule of Civil Procedure 62(d) grants the district court a limited ability to modify an interlocutory injunction even while an appeal is pending from an injunction. Fed. R. Civ. P. 62(d).
2. The current injunction, or “status quo,” is universal masking pursuant to KCOBE Policy C-240. That Policy allows for updates based upon the “evolving need” to respond to the COVID-19 pandemic, consistent with CDC and local health department recommendations.
3. Three days ago, February 25, 2022, the CDC did provide updated information on the evolving pandemic. This included mitigation measures for managing COVID-19 including the use of masking. Accordingly, as explained in the attached Memorandum, with the support of an epidemiologist, pediatrician, and immunologist, Plaintiffs *immediately* update the Court and request a modification to include the most recent CDC recommendations be implemented for Knox County schools. This will protect the class of Plaintiffs at increased risk from COVID-19 under the ADA while providing standards going forward.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I certify that this Motion was served upon all counsel of record for the Defendants, including David Sanders and Amanda Morse for KCBOE and Reid Smith for Governor Lee, through the Court's ECF filing system on February 28, 2022.

/s Jessica F. Salonus